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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2122 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE BANK OF INDORE

Versus

SURAT MUNICIPAL CORPORATION

Appearance:

1. Special Civil Application No. 2122 of 2001
Ms. Adhyru for Mr. S.R. Chhatrapati for
MR RR GUPTA for the Petitioner
MR PRASHANT G DESAI for Respondent No. 1
MR NK MAJMUDAR for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.H.KADRI

Date of decision: 17/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard learned counsel for the respective parties.

2. The present petition has been filed by the tenant of certain tenanted premises which has been subject to tax under the provisions of the Bombay Provincial Municipal Corporations Act, 1949, and, consequently, on account of non-payment thereof, action has been taken for auction of the said property.

3. As a result of the hearing and discussion, it becomes apparent that the owner of the said property had earlier filed Special Civil Application No.2087 of 2001 from the same cause of action in respect of the same property. As aforestated, the present petition has been filed by the tenant of the said property.

4. The aforesaid earlier petition filed by the owner came to be disposed of by this Court (Coram: K.M. Mehta, J.) by order dated 13th July 2001. By the said decision, certain directions were given to the authorities and certain opportunity was also afforded to the owner of the property to support the contentions taken. In view of the aforesaid decision, the learned counsel before us agree that similar directions may also be issued in the present petition and the same may be disposed of accordingly.

5. In the premises aforesaid, it is directed that the appropriate authority will adjudicate the disputes and differences as to quantification of the property tax leviable on the property in question. The appropriate authority will also hear the present petitioner and permit the petitioner to produce any evidence in support of its case as to whether the petitioner is liable to pay any property tax or not. After going through the evidence and material on record, the appropriate authority will also hear the petitioner and, thereafter, shall pass a short but speaking order in respect of the dispute. The Corporation shall not take any coercive action including putting the property to an auction for 15 days after the aforesaid decision is conveyed to the petitioner.

6. In view of the aforesaid directions, no further orders a

Rule is discharged accordingly with no order as to costs.

January 17, 2002 (Y.B. Bhatt, J.)

(M.H. Kadri, J.)

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